



THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, N.Y. 10007

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

EUN JEE (ESTHER) KIM
Assistant Corporation Counsel
Tel.: (212) 356-2340
Fax: (212) 356-3509
eunkim@law.nyc.gov

January 24, 2024

BY ECF

Honorable P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Richard Quinones v. City of New York, et al.,
23 Civ. 09486 (PKC)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney who was recently transferred the above-referenced matter. In that capacity, defendant City writes to respectfully request a thirty (30) day extension of time, from January 29, 2024 until February 28, 2024, to respond to the complaint and that the Court *sua sponte* grant the same extension of time for individual defendants Daniel Halligan, Daniel Teixeira, and Meghan Diani to respond to the complaint so that their defenses are not jeopardized while representation is being determined. To the extent the Court is inclined to grant this request, defendant City also respectfully requests a corresponding thirty (30) day extension of time for the remaining Plan deadlines and an adjournment of the initial conference currently scheduled for April 5, 2024 at 10:30 AM to a date and time convenient for the Court after the Plan runs its course. This is the first request of its kind and plaintiff's counsel, Clyde Rastetter, consents to this request.

By way of background, on October 27, 2023, plaintiff filed the instant action, pursuant to 42 U.S.C. § 1983 alleging, *inter alia*, that he was subject to excessive force by a number of police officers during the course of his October 27, 2020 arrest for a previous robbery. On October 30, 2023, this case was designated for "Participation in Local Civil Rule 83.10" (the "Plan"). Thereafter, on January 12, 2024, multiple documents indicating that service had been executed upon the defendants were filed. See Docket Entry Nos. 18 – 23. Given this case's designation to proceed pursuant to the Plan and the deadlines outlined therein, it appears that the

Time to answer
for all served defendants
is extended to Feb 28, 2024
2024. Adjournment of
April 5 conference is
DENIED without
prejudice to renewal
after Feb 28,
2024.

SO
ORDERED
USDJ
1-25-24

City and Officers Halligan, Texeira and Diani's responses to the complaint are currently due January 29, 2024.¹

Defendant City now seeks the instant request for enlargements of time for the following reasons. First, the undersigned was only recently transferred this matter this week after the attorney who previously handled this case informed this Office that he is on an emergency leave of absence. Accordingly, the undersigned requires additional time to review the case materials that have been received and prepare a response to the complaint. Additionally, the enlargement of time to respond to the complaint is also needed so that the undersigned can proceed with the necessary process of determining representation with the individual defendant officers who, upon information and belief, have been served. As Your Honor is aware, pursuant to Section 50-k of the New York General Municipal Law and based on a review of the case, we must first determine whether we can represent the individually named defendants in this action. The individual defendants must then decide whether they wish to be represented by this Office. If so, this Office must obtain their written authorization. Only after this process has been followed can this Office determine how to proceed in this case. See General Municipal Law § 50(k); see also Mercurio v. City of New York, 758 F.2d 862, 864-65 (2d Cir. 1985); see also Williams v. City of New York, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (noting that the decision to bestow legal representation upon individual defendants is made by the Corporation Counsel as set forth in state law).

As noted above, to the extent the Court is inclined to grant the within request, defendant City respectfully requests that, because this case is proceeding pursuant to the Plan and those deadlines are impacted by the answer deadline, the remaining Plan deadlines be similarly extended by thirty (30) days as set forth below:

- Answer deadline for defendants City, Halligan, Texeira, and Diani from January 29, 2024 to February 28, 2024;
- Initial Disclosures deadline from February 19, 2024 to March 20, 2024;
- Plan Limited Discovery deadline from February 26, 2024 to March 27, 2024;
- Amended Pleadings deadline from March 11, 2024 to April 10, 2024;
- Written Settlement Demand deadline from March 11, 2024 to April 10, 2024; and
- Written Offer Response deadline from March 25, 2024 to April 24, 2024;
- Deadline to complete mediation from May 6, 2024 to June 5, 2024.

Finally, in light of the above, defendant City respectfully requests that the Court adjourn the initial conference currently scheduled for April 4, 2024 to a date and time convenient for the Court after the Plan has run its course, i.e., after June 5, 2024.

¹ Upon information and belief, and upon conferral with plaintiff's counsel, purported defendants Officers Stephen Bartels and Connor McMorro-Kwalwasser were served on January 12, 2024 and their response to the complaint is due March 22, 2024 and March 10, 2024 respectively.

For the reasons set forth above, defendant City respectfully requests a thirty (30) day extension of time, from January 29, 2024 until February 28, 2024 for defendant City to respond to the complaint and that the Court *sua sponte* grant that same extension to defendants Halligan, Teixeira, and Diani. In addition, to the extent the Court is inclined to grant the above request, it is also respectfully requested that all Plan deadlines be enlarged by thirty (30) days as set forth above and that the Court adjourn the initial conference to a date and time convenient for the Court after the Plan runs its course, i.e., after June 5, 2024.

Thank you for your consideration herein.

Respectfully submitted,

/s/ Eun Jee (Esther) Kim

Eun Jee (Esther) Kim

Assistant Corporation Counsel

Special Federal Litigation Division

cc: VIA ECF
All counsel of record